

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

eBay Inc.,

CASE NO. C 08 04052 JF

Plaintiff(s),

v.

Digital Point Solutions, Inc., et al.

STIPULATION AND [PROPOSED]  
ORDER SELECTING ADR PROCESS

Defendant(s).

/

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

The parties agree to participate in the following ADR process:

**Court Processes:**

- Non-binding Arbitration (ADR L.R. 4)
- Early Neutral Evaluation (ENE) (ADR L.R. 5)
- Mediation (ADR L.R. 6)

*(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)*

**Private Process:**

- Private ADR (please identify process and provider) Private mediation

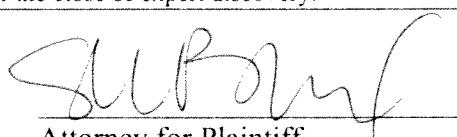
through a provider to be later determined by the parties.

The parties agree to hold the ADR session by:

the presumptive deadline (*The deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered.*)

- other requested deadline Within 30 days after the close of expert discovery.

Dated: 12/23/08

  
S. Lubomirski  
Attorney for Plaintiff

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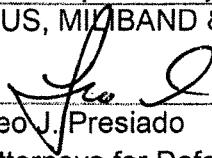
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RUS, MILBAND & SMITH, APC

Dated: 12/23/08

  
Leo J. Presiado

Attorneys for Defendants  
Thunderwood Holdings, Inc.,  
Brian Dunning and briandunning.com

Dated: \_\_\_\_\_

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Dated: 12/24/08

Attorney for Plaintiff

*Patricia Heni for Daniel Bernhard  
Pursuant to written authorization*

Daniel Bernhard, on behalf of Defendants  
Todd Dunning and Dunning Enterprises, Inc.

Dated: 12/24/08

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Dated: 12/24/08

Attorney for Plaintiff

*Patrick Klein for Patrick K. McClellan  
pursuant to written authorization*

Dated: 12/24/08

Patrick K. McClellan, on behalf of Defendant  
Kessler's Flying Circus

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Dated: 12/23/08

\_\_\_\_\_  
Attorney for Plaintiff  
s/Seyamack Kouretchian

Dated: 12/24/2008

\_\_\_\_\_  
Attorney for Defendant

**[PROPOSED] ORDER**

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

- Non-binding Arbitration
- Early Neutral Evaluation (ENE)
- Mediation
- Private ADR

Deadline for ADR session

90 days from the date of this order.

other As stipulated above.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

UNITED STATES DISTRICT                    JUDGE